

NPDES GENERAL PERMIT FOR DISCHARGES

From

**SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS**

**PERMIT NO. TNS000000**

Under authority of the Tennessee Water Quality Control Act of 1977 ([T.C.A. 69-3-101](#) et seq.) and ~~authorization~~[approval](#) from the United States Environmental Protection Agency under the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 ([33 U.S.C. 1251](#), et seq.) and the [Water Quality Act of 1987, P.L. 100-4](#), ~~except as provided in Part 3.1 (Discharges to Water Quality Impaired Waters) of this general permit,~~ operators of small municipal separate storm sewer systems are authorized to discharge storm water runoff into waters of the State of Tennessee, ~~are authorized to discharge storm water runoff~~ in accordance with the various eligibility criteria, administrative procedures, program requirements, reporting requirements, etc. following permit monitoring and reporting requirements, effluent limitations, and other provisions as set forth in parts 1 through 7 herein, ~~from the subject outfalls to waters of the State of Tennessee.~~

This permit is issued on: **February 27, 2003**

This permit is effective on: **February 28, 2003**

This permit expires on: **February 26, 2008**

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Paul E. Davis, Director  
Division of Water Pollution Control



**NPDES GENERAL PERMIT FOR DISCHARGES FROM  
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4)**

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## **Introduction --**

The following document is a Tennessee's National Pollutant Discharge Elimination System (NPDES) general permit for small municipal separate storm sewer systems (MS4s). It is designed for permitting those MS4s regulated as a result of the December 8, 1999, [EPA Phase II storm water rule](#).

Various information about the state's phase II program can be found on our Phase II web site: <http://www.state.tn.us/environment/wpc/stormh2o/MS4II.htm>, including:

- The permit itself;
- The rationale sheet setting forth reasons behind the conditions of the permit;
- The notice of intent form (NOI);
- A list of regulated MS4s in Tennessee; and
- Other information, including links to useful storm water management resources.

This permit authorizes discharges of storm water runoff and several non-storm water discharges, provided the activities are in compliance with the terms of this permit.

## **Submitting NOIs & obtaining coverage under this permit**

In order to obtain coverage under this permit, the operator of an MS4 must submit an NOI to the Division of Water Pollution Control (division) at the local Environmental Assistance Center. The NOI must follow the guidelines in part 2, Notice of Intent Requirements, of the NPDES MS4 general permit. After the division reviews the NOI, the permittee will be issued a notice of coverage (NOC), by July 1, 2003, or 90 days after the date that the [NOI](#) is postmarked, whichever is later.

## **Annual reports**

After the effective date of permit coverage, the operator of the MS4 is required to submit an annual report to the division regarding its storm water quality management program. The annual report should be submitted to the Nashville central office of the division (see part [5.45.3](#), Reporting). For permittees who obtain coverage in 2003, the first annual report should cover the period July 1, 2003, through June 30, 2004, and is due on September 30, 2004. Subsequent annual reports are due September 30.

## **Annual maintenance fee**

There is an annual permit maintenance fee associated with this permit of \$2500/year. The permittee will be invoiced.

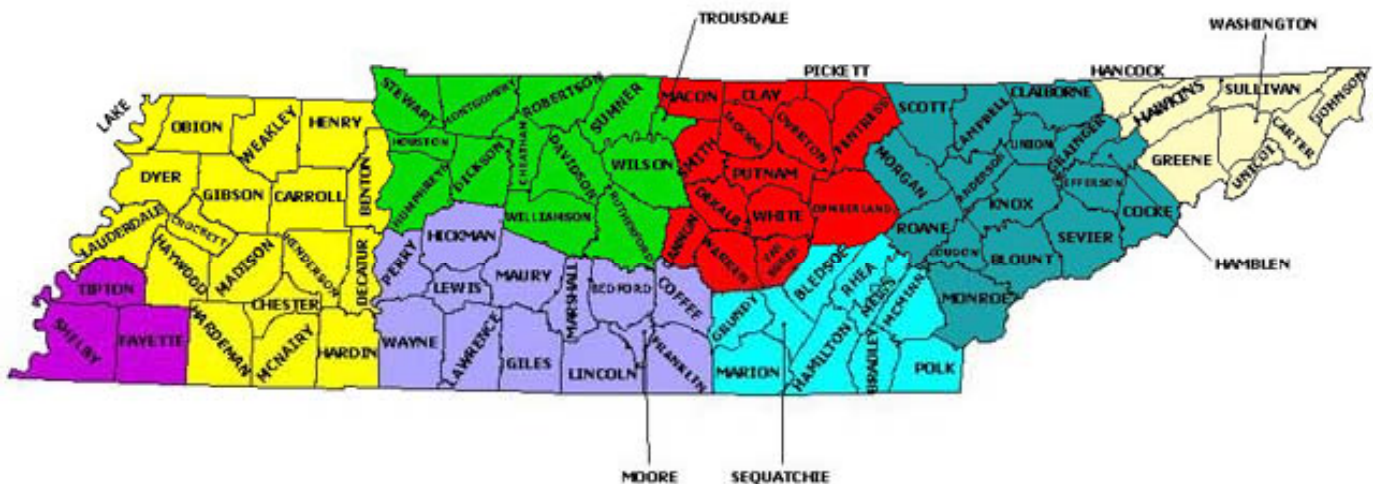
## 1. COVERAGE UNDER THIS PERMIT

### 1.1. Permit Area

This permit covers the entire State of Tennessee.

### 1.2. List and Map of the Division's Environmental Assistance Centers (EACs) and Corresponding Counties

<u>EAC Name</u>	List of Counties
<a href="#"><u>Chattanooga</u></a>	Bledsoe, Bradley, Grundy, Hamilton, Marion, McMinn, Meigs, Polk, Rhea, Sequatchie
<a href="#"><u>Columbia</u></a>	Bedford, Coffee, Franklin, Giles, Hickman, Lawrence, Lewis, Lincoln, Marshall, Maury, Moore, Perry, Wayne
<a href="#"><u>Cookeville</u></a>	Cannon, Clay, Cumberland, De Kalb, Fentress, Jackson, Macon, Overton, Pickett, Putnam, Smith, Van Buren, Warren, White
<a href="#"><u>Jackson</u></a>	Benton, Carroll, Chester, Crockett, Decatur, Dyer, Gibson, Hardeman, Hardin, Haywood, Henderson, Henry, Lake, Lauderdale, Madison, McNairy, Obion, Weakley
<a href="#"><u>Johnson City</u></a>	Carter, Greene, Hancock, Hawkins, Johnson, Sullivan, Unicoi, Washington
<a href="#"><u>Knoxville</u></a>	Anderson, Blount, Campbell, Claiborne, Cocke, Grainger, Hamblen, Jefferson, Knox, Loudon, Monroe, Morgan, Roane, Scott, Sevier, Union
<a href="#"><u>Memphis</u></a>	Fayette, Shelby, Tipton
<a href="#"><u>Nashville</u></a>	Cheatham, Davidson, Dickson, Houston, Humphreys, Montgomery, Robertson, Rutherford, Stewart, Sumner, Trousdale, Williamson, Wilson



**1.3. List of the Division's EACs with Addresses and Phone Numbers**

<u>EAC Name</u>	Address	City	Zip	Area Code	Phone Number
<a href="#">Chattanooga</a>	540 McCallie Avenue, Suite 550	Chattanooga	37402-2013	423	634-5745
<a href="#">Columbia</a>	2484 Park Plus Drive	Columbia	38401-5300	931	380-3371
<a href="#">Cookeville</a>	1221 South Willow Avenue	Cookeville	38506-5300	931	432-4015
<a href="#">Jackson</a>	362 Carriage House Drive	Jackson	38305-2222	731	512-1300
<a href="#">Johnson City</a>	2305 Silverdale Road	Johnson City	37601-2162	423	854-5400
<a href="#">Knoxville</a>	2700 Middlebrook Pike, Suite 220	Knoxville	37921-5300	865	594-6035
<a href="#">Memphis</a>	2510 Mt. Moriah Road, Suite E-645	Memphis	38115-1520	901	368-7939
<a href="#">Nashville</a>	711 R.S. Gass Boulevard	Nashville	37243-1550	615	687-7000
<a href="#">Nashville Central Office</a>	6 <sup>th</sup> Floor, L&C Annex 401 Church Street	Nashville	37243-1534	615	532-0625

All Environmental Assistance Centers (EACs) may be reached by telephone at the toll-free number 1-888-891-8332 (TDEC).

**1.4. Eligibility**

- 1.4.1. This permit authorizes discharges of storm water from small municipal separate storm sewer systems (MS4s), as defined in [40 CFR §122.26\(b\)\(16\)](#). You are authorized to discharge under the terms and conditions of this general permit if you:
- 1.4.1.1 Operate a small MS4 within the permit area described in Section 1.1,
  - 1.4.1.2 Are not a “large ” or “medium ” MS4 as defined in [40 CFR §122.26\(b\)\(4\) or \(7\)](#), and
  - 1.4.1.3 Submit a [Notice of Intent \(NOI\)](#) in accordance with Part 2 of this permit, and
  - 1.4.1.4 Are located fully or partially within an urbanized area as determined by the latest Decennial Census by the Bureau of Census, or
  - 1.4.1.5 Are designated for permit authorization by the division pursuant to [40 CFR §122.32](#).
- 1.4.2. The following are types of authorized discharges:

1.4.2.1 *Storm water discharges.* This permit authorizes storm water discharges to waters of the state from the small MS4s identified in Section 1.4.1, except as excluded in Section 1.5.

1.4.2.2 *Area of MS4 authorized.* Where a city or town is covered under this permit, this permit covers all portions and areas of the MS4 operated by the city or town. Where a county is covered under this permit, the permit covers the urbanized area of the county and any additional portions of the county, or the whole county, as shall be indicated on the notice of coverage (NOC). Applicants should indicate what portion of the county they wish covered under the permit.

1.4.2.2 1.4.2.3 *Non-storm water discharges.* You are authorized to discharge the following non-storm water sources provided that the division has not determined these sources to be substantial contributors of pollutants to your MS4:

- Water line flushing
- Landscape irrigation
- Diverted stream flows
- Rising ground waters
- Uncontaminated ground water infiltration (infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.)
- Uncontaminated pumped ground water
- Discharges from potable water sources
- Foundation drains
- Air conditioning condensate
- Irrigation water
- Springs
- Water from crawl space pumps
- Footing drains
- Lawn watering
- Individual residential car washing
- Flows from riparian habitats and wetlands
- Dechlorinated swimming pool discharges
- Street wash water
- Discharges or flows from fire fighting activities

## 1.5. **Limitations on Coverage**

This permit does not authorize:

- 1.5.1. Discharges that are mixed with sources of non-storm water unless such non-storm water discharges are:
- In compliance with a separate NPDES permit; and
  - Determined not to be a substantial contributor of pollutants to waters of the state.



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- 1.5.2. Storm water discharges associated with industrial activity as defined in [40 CFR §122.26\(b\)\(14\)\(i\)-\(ix\) and \(xi\)](#).
- 1.5.3. Storm water discharges associated with construction activity as defined in [40 CFR §122.26\(b\)\(14\)\(x\)](#) or [40 CFR §122.26\(b\)\(15\)](#).
- 1.5.4. Storm water discharges currently covered under another permit.
- 1.5.5. Discharges or discharge-related activities that are likely to jeopardize the continued existence of any species that are listed as endangered or threatened under the [Endangered Species Act \(ESA\)](#) or result in the adverse modification or destruction of habitat that is designated as critical under the ESA. See part 3.2 for instructions related to evaluating and certifying your status with respect to endangered and threatened species.
- 1.5.5.1 You are not authorized to discharge if the discharges or discharge-related activities cause a prohibited “take” of endangered or threatened species (as defined under Section 3 of the Endangered Species Act and 50 CFR §17.3), unless such takes are authorized under sections 7 or 10 of the Endangered Species Act.
- 1.5.5.2 You are not authorized for any discharges where the discharges or discharge-related activities are likely to jeopardize the continued existence of any species that are listed as endangered or threatened under the ESA or result in the adverse modification or destruction of habitat that is designated as critical under the ESA.
- 1.5.6. Discharges that would cause or contribute to in-stream exceedances of water quality standards. Your storm water management program must include a description of the BMPs that you will be using to ensure that this will not occur. The division may require corrective action or an application for an individual permit or alternative general permit if an MS4 is determined to cause an in-stream exceedance of water quality standards.
- 1.5.7. Discharges of any pollutant into any water for which a [Total Maximum Daily Load \(TMDL\)](#) has been ~~either established or approved by EPA, where the TMDL applies to storm water discharges from the MS4 a specific wasteload allocation and recommends it be incorporated into an individual NPDES permit by the division unless your discharge is consistent with that TMDL.~~
- 1.5.7.1 This eligibility condition applies at the time you submit a Notice of Intent for coverage. For discharges not eligible for coverage under this permit, you must apply for and receive an individual or other applicable general NPDES permit prior to discharging.
- 1.5.7.2 If a TMDL is approved by EPA after you have received permit coverage and applies a specific wasteload allocation to the MS4, recommending it be incorporated into an individual permit, then you must apply for an individual NPDES permit within 90 days from promulgation of the TMDL, or earlier if the division notifies you of an earlier date. Until the individual permit is effective, If conditions change after you have permit coverage, you may remain covered by the general permit provided you comply with the applicable requirements of Part
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~~3. You must incorporate any limitations, conditions and requirements applicable to your discharges, including monitoring frequency and reporting required, into your Storm Water Management Program in order to be eligible for permit coverage.~~

- 1.5.8. Discharges that do not comply with the division's anti-degradation policy for water quality standards, ~~p~~Pursuant to the Rules of the [Tennessee Department of Environment and Conservation](#) (TDEC), [Chapter 1200-4-3-.06](#), titled "Tennessee Antidegradation Statement," ~~and in consideration of TDEC's directive in attaining the greatest degree of effluent reduction achievable in municipal, industrial, and other wastes, the permittee shall further be required, pursuant to the terms and conditions of this permit, to comply with any applicable Waste Load Allocations (WLA), effluent limitations and schedules of compliance, required to implement applicable water quality standards, to comply with a state water quality plan or other state or federal laws or regulations, or where practicable, to comply with a standard permitting no discharge of pollutants.~~

## **1.6. Obtaining Authorization**

- 1.6.1. To be authorized to discharge storm water from small MS4s, you must submit a [Notice of Intent \(NOI\)](#) and a description of your storm water management program in accordance with the deadlines presented in Section 2.1 of this permit.
- 1.6.2. You must submit the information required in Section 2.2 on the latest version of the [NOI](#) form (or photocopy thereof – see Addendum A). Your [NOI](#) must be signed and dated in accordance with Section 6.7 of this permit. Note: If the division notifies dischargers (either directly, by public notice, or by making information available on the Internet) of other [NOI](#) form options that become available at a later date (e.g., electronic submission of forms), you may take advantage of those options to satisfy the [NOI](#) use and submittal requirements of Part 2.
- 1.6.3. ~~Unless notified by the division to the contrary, d~~Dischargers who submit an [NOI](#) in accordance with the requirements of this permit are authorized to discharge storm water from small MS4s under the terms and conditions of this permit ~~as of the effective date of coverage given in the notice of coverage(NOC) transmitted to the discharger by the state July 1, 2003, or 90 days after the date that the NOI is postmarked, whichever is later.~~ The division may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the [NOI](#) or other information (see Section 6.16).
- 1.6.4. Where the operator changes, or where a new operator is added after submittal of an [NOI](#) under Part 2, a new [NOI](#) must be submitted in accordance with Part 2 prior to the change or addition.

## **2. NOTICE OF INTENT REQUIREMENTS**

### **2.1. Deadlines for Notification**

- 2.1.1. If you are automatically designated under [40 CFR §122.32\(a\)\(1\)](#), then you are required to submit an [NOI](#) or apply for an individual permit by **March 10, 2003**.
- 2.1.2. If you are designated by the division, either before or after the date that this permit is issued, then you are required to submit an [NOI](#) to the division within 180 days of notice.
- 2.1.3. Submitting a late [NOI](#). You are not prohibited from submitting an [NOI](#) after the dates provided above. If a late [NOI](#) is submitted, your authorization is only for discharges that occur after permit coverage is granted. The division reserves the right to take appropriate enforcement actions for any unpermitted discharges.

### **2.2. Contents of the Notice of Intent**

- 2.2.1. The Notice(s) of Intent must be signed in accordance with Part 6.7 of this permit and must include the following information:
- 2.2.2. You must use the NOI form provided by the division as Appendix A to this permit. This document is also available in Microsoft Word format and Adobe pdf format on our web page or by e-mail to you upon request. If you complete the form in the electronic version, you may add statements of explanation to the form, to make your information more readily understood.
- 2.2.3. The NOI requires you to submit various information, including:
  - 2.2.3.1 The name of your municipal entity/state agency/federal agency, mailing address, and telephone number;
  - 2.2.3.2 The name of the major receiving water(s) and an indication of whether any of your receiving waters are on the latest CWA §303(d) list of impaired waters.
  - 2.2.3.3 If you are relying on another governmental entity regulated under the storm water regulations ([40 CFR 122.26 & 122.32](#)) to satisfy one or more of your permit obligations (see Part 4.4), the identity of that entity(ies) and the element(s) they will be implementing.
  - 2.2.3.4 Information on your chosen best management practices (BMPs) and the measurable goals for each of the storm water minimum Control Measures in Part 4.2 of this permit, your timeframe for implementing each of the BMPs, and the person or persons responsible for implementing or coordinating your Storm Water Management Program.

## **2.3. Where and How to Submit**

2.3.1. You may submit your NOI either by hard copy or ~~by~~ electronically. Insofar as you are able to do so, the Division prefers receiving NOIs by the electronic copy option.

2.3.1.1 Hard copy option. You must submit an original [NOI](#), signed in accordance with the signatory requirements of Section 6.7 of this permit, and a copy of the NOI, to the address shown in the Part 1.3 for the division's Environmental Assistance Center responsible for the county where the facility is located.

2.3.1.2 Electronic copy option. Send by e-mail, with the completed application and attachments (such as map and city ordinances) to [phase.two@state.tn.us](mailto:phase.two@state.tn.us). In addition, send an original, hard copy letter, signed by the responsible official of the MS4, which makes reference to the e-mail transmission and the exact time that the electronic NOI was submitted. The letter must contain the signatory statement found on page three of the NOI form.

## **3. SPECIAL CONDITIONS**

### **3.1. Discharges to Water Quality Impaired Waters**

3.1.1. Applicability: You must:

3.1.1.1 Determine whether storm water discharge from any part of the MS4 significantly contributes directly or indirectly to a 303(d) listed (i.e., impaired) waterbody. [Water quality impaired waters](#) means any segment of surface waters that has been identified by the division as failing to support classified uses. If you have discharges meeting these criteria, you must comply with Part [3.1.1.2](#) and 3.1.2; if you do not, the remainder of this Part 3.1 does not apply to you.

3.1.1.2 If you have "303(d)" discharges described above, you must also determine whether a [Total Maximum Daily Load \(TMDL\)](#) has been developed by the division and approved by EPA for the listed waterbody. If there is a [TMDL](#), you must comply with both Parts 3.1.2 and 3.1.3; if no [TMDL](#) has been approved, Part 3.1.3 does not apply until a [TMDL](#) has been approved.

3.1.2. Water Quality Controls for Discharges to Impaired Waterbodies. ~~The storm water management program review submitted to the division~~ ~~Your storm water management program (SWMP)~~ must include a section describing how your program will control the discharge of the pollutants of concern. ~~and ensure your discharges will not cause or contribute to instream exceedances of the water quality standards.~~ This ~~section discussion~~ must ~~specifically~~ identify the measures and BMPs that will collectively control the discharge of the pollutants of concern. ~~The measures should be presented in order of priority with respect to controlling the pollutants of concern.~~

3.1.3. Consistency with [Total Maximum Daily Load \(TMDL\)](#). ~~Allocations.~~ If a [TMDL](#) has been approved for any waterbody into which you discharge, you must ~~follow~~

the procedure below and report on these activities in annual reports to the division:

- 3.1.3.1 Determine whether the approved TMDL is for a pollutant likely to be found in storm water discharges from your MS4.
- 3.1.3.2 Determine whether the TMDL includes a pollutant wasteload allocation (WLA), implementation recommendations, or other performance requirements specifically for storm water discharges from your MS4.
- 3.1.3.3 Determine whether the TMDL addresses a flow regime likely to occur during periods of storm water discharge.
- 3.1.3.4 After the determinations above have been made and if it is found that your MS4 must implement specific WLA provisions of the TMDL, assess-evaluate whether the WLAs are being met through implementation of existing storm water control measures is meeting the TMDL provisions, or if additional control measures are necessary.
- 3.1.3.5 Document all control measures currently being implemented or planned to be implemented. Also include a schedule of implementation for all planned controls. Provide your rationale (Document the e.g., calculations, assessments, reports and/or other evidence) that shows that the WLA you will comply with the TMDL provisions will be met. For control measures that are expected to be implemented and evaluated beyond the term of this permit, you should also include longer schedule of implementation as necessary to describe the control measure.
- 3.1.3.6 Describe a method to evaluate whether the storm water controls are adequate to meet the WLA requirements of the TMDL.
- 3.1.3.7 If the evaluation shows that additional or modified controls are necessary, describe the type and schedule for the control additions/revisions.

## **3.2. Protection of Listed Threatened or Endangered Species**

- 3.2.1. You must evaluate annually whether or not your storm water discharges, allowable non-storm water discharges, and discharge-related activities are likely to jeopardize the continued existence of any species that are listed as endangered or threatened (“listed ”) under the ESA or result in the adverse modification or destruction of habitat that is designated as critical under the ESA (“critical habitat”). Also reference the Fish and Wildlife Service lists at <http://endangered.fws.gov/wildlife.html#Species>. You should keep documentation of the evaluations and decisions reached through the evaluation.
- 3.2.1.1 “Discharge-related activities” include: activities which cause, contribute to, or result in storm water point source pollutant discharges; and measures to control storm water discharges, including the siting, construction and operation of best management practices (BMPs) to control, reduce or prevent storm water pollution.

- 3.2.1.2 Evaluation procedure: You must use the most recent [Endangered and Threatened Species County-Species List](#) available from EPA and the follow the process described below to determine whether or not your discharges and discharge-related activities are likely to jeopardize the continued existence of any species that are listed as endangered or threatened under the ESA, or result in the adverse modification or destruction of habitat that is designated as critical under the ESA. You must meet one or more of the criteria in 3.2.1.2.1 through 3.2.1.2.5 below for the entire term of coverage under the permit.
- 3.2.1.2.1 Criteria A: No endangered or threatened species or critical habitat are in proximity to your MS4 or the point where authorized discharges reach the receiving water; or
- 3.2.1.2.2 Criteria B: In the course of a separate federal action involving your MS4 (e.g., the division's processing a request for an individual NPDES permit, issuance of a CWA §404 wetlands dredge and fill permit, etc.), formal or informal consultation with the Fish and Wildlife Service and/or the National Marine Fisheries Service (the "Services ") under Section 7 of the Endangered Species Act (ESA) has been concluded and that consultation:
- Addressed the effects of your storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed species and critical habitat and
  - The consultation resulted in either a no jeopardy opinion or a written concurrence by the Service on a finding that your storm water discharges, allowable non-storm water discharges, and discharge-related activities are not likely to adversely affect listed species or critical habitat; or
- 3.2.1.2.3 Criteria C: Your activities are authorized under Section 10 of the ESA and that authorization addresses the effects of your storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed species and critical habitat; or
- 3.2.1.2.4 Criteria D: Using best judgment, you have evaluated the effects of your storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed endangered or threatened species and critical habitat and do not have reason to believe the discharge and discharge-related activities will jeopardize the continued existence of any species or result in the adverse modification or destruction of critical habitat.
- 3.2.1.2.5 Criteria E: Your storm water discharges, allowable non-storm water discharges, and discharge-related activities were already addressed in another operator's certification of eligibility under Part 3.2.1.2.1 through 3.2.1.2.4 which included your MS4's activities. By certifying eligibility under this Part, you agree to comply with any measures or controls upon which the other operator's certification was based;
- 3.2.1.3 The division may require any permittee or applicant to provide documentation of the permittee or applicant's determination of eligibility for this permit where EPA or the Fish and Wildlife and/or National Marine Fisheries Services

determine that there is a potential impact on endangered or threatened species or a critical habitat.

- 3.2.1.4 You are not authorized to discharge if the discharges or discharge-related activities cause a prohibited “take” of endangered or threatened species (as defined under Section 3 of the Endangered Species Act and [50 CFR §17.3](#)), unless such takes are authorized under sections 7 or 10 of the Endangered Species Act.
- 3.2.1.5 You are not authorized for any discharges where the discharges or discharge-related activities are likely to jeopardize the continued existence of any species that are listed as endangered or threatened under the ESA or result in the adverse modification or destruction of habitat that is designated as critical under the ESA.

### **3.3. Co-permittees**

- 3.3.1. You may be covered under this general permit as a co-permittee with one or more other, neighboring MS4s.
- 3.3.2. In order to be permitted as co-permittees, you and the other MS4(s) must submit an NOI with the same set of BMPs for all co-permittees, along with the same measurable goals and implementation milestones. ~~You may submit a~~ single NOI ~~if it is~~ must be signed by responsible officials of each participating MS4. If measurable goals and implementation milestones vary, each co-permittee must submit its own appendix to the NOI, “BMP Measurable Goals and Implementation Milestones.” The description of your storm water management program must clearly describe which permittees are responsible for implementing each of the control measures.
- 3.3.3. Each co-permittee is individually liable for:
- a. Permit compliance for discharges from portions of the MS4 where it is the operator and for areas within its legal jurisdiction;
  - b. Ensuring that the six minimum measures are implemented for portions of the MS4 where it is the operator and in areas within its legal jurisdiction; and
  - c. If any permit conditions are established for specific portions of the MS4, co-permittees need only comply with the permit conditions relating to those portions of the MS4 for which they are the operator.
- 3.3.4. Each co-permittee is jointly liable for compliance with annual reporting requirements in part 5.4 below. ~~5.3 below, except that a co-permittee is individually liable for any parts of the annual report that relate exclusively to portions of the MS4 where it is the operator.~~
- 3.3.5. Specific co-permittees are jointly liable for permit compliance on portions of the MS4 as follows:
- a. Where operational or storm water management program implementation authority over portions of the MS4 has been transferred from one co-permittee to another in accordance with legally binding interagency



- agreements, both the owner and operator may be jointly liable for permit compliance on those portions of the MS4; and
- b. Where one or more co-permittees jointly own or operate a portion of the MS4, each owner/operator is jointly liable for compliance with permit conditions on the shared portion of the MS4.

#### 4. STORM WATER MANAGEMENT PROGRAMS

##### 4.1. Requirements

- 4.1.1. You must develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants from your small MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. The storm water management program should include management practices; control techniques and system, design, and engineering methods; and such other provisions as the division determines appropriate for the control of such pollutants. Your storm water management program must include the following information for each of the six minimum control measures described in Section 4.2 of this permit:
- 4.1.1.1 The best management practices (BMPs) that you or another entity will implement for each of the storm water minimum control measures;
- 4.1.1.2 The measurable goals for each of the BMPs including, as appropriate, the months and years in which you will undertake required actions, including interim milestones and the frequency of the action; and
- 4.1.1.3 The person or persons responsible for implementing or coordinating the BMPs for your storm water management program.
- 4.1.2. You must develop and fully implement your program in five years from the permit issuance date (~~February 27, 2003~~~~January 15, 2003~~), except that certain elements of your program must be implemented by the following dates:

Permit requirement	Description	Implementation date
4.2.3.1.3	Ordinance prohibiting illicit discharges	Within 18 months of permit coverage (December 31, 2004)
4.2.4.1.1	Ordinance or other regulatory mechanism for construction site runoff control program	Within 18 months of coverage under this permit (4.2.4.2)
4.2.4.1	All components of construction site runoff control program, including plans review and inspections <u>and staff training as required in 4.2.4.1.8</u>	<u>By December 31, 2005, for permittees required to file NOI in the year 2003; otherwise, W</u> <del>within</del> 24 months of coverage under this permit ( <del>June 30, 2005</del> ) (4.2.4.2)



<del>5.45.3</del>	Reporting requirement	Annually by <del>June 30</del> <u>September 30 (1<sup>st</sup> report due September 30, 2004) each year of the permit term</u>
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~~(Dates in parentheses are based on permit coverage of July 1, 2003.)~~ The December 31, 2004, and December 31, 2005, dates assume permit coverage initiated July 1, 2003.

## 4.2. Minimum Control Measures

The six minimum control measures that must be included in your storm water management program are:

### 4.2.1. Public Education and Outreach on Storm Water Impacts

4.2.1.1 *Permit requirement.* You must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff.

4.2.1.1.1 ~~For any types of activities you know to be storm water pollutant hot spots in your area. After you ascertain local and state regulations that apply to grease traps, waste disposal and site cleanliness at restaurants and similar food service establishments,~~ you must prepare a clear set of requirements with respect to storm water management at these establishments and ensure that the ~~restaurants and similar food service~~ establishments have been made aware of those requirements.

### 4.2.2. Public Involvement/Participation

4.2.2.1 *Permit requirement.* You must at a minimum, comply with State, and local public notice requirements when implementing a public involvement/participation program.

### 4.2.3. Illicit Discharge Detection and Elimination

4.2.3.1 Permit requirement. You must:

4.2.3.1.1 Develop, implement and enforce a program to detect and eliminate illicit discharges (as defined in [40 CFR §122.26\(b\)\(2\)](#)) into your small MS4;

4.2.3.1.2 Develop, if not already completed, a storm sewer system map, showing the location of all outfalls (*i.e., points where the city or county-operated storm sewer system discharges into wet weather conveyances owned or operated by another*

*MS4, or into waters with use classifications designated by the state.) and the names and location of all use-designated waters of the state that receive discharges from those outfalls;*

- 4.2.3.1.3 To the extent allowable under state or local law, effectively prohibit, through ordinance, or other regulatory mechanism, non-storm water discharges into your storm sewer system and implement appropriate enforcement procedures and actions;
- 4.2.3.1.4 Develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, to your system;
- 4.2.3.1.5 Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste; and
- 4.2.3.1.6 Address the following categories of non-storm water discharges or flows (i.e., illicit discharges) only if you identify them as significant contributors of pollutants to your small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at [40 CFR §35.2005\(20\)](#)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges or flows from fire fighting activities are excluded from the effective prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to waters of the state).
- 4.2.3.2 You must be able, by ordinance or other regulatory mechanism, to prohibit contamination of storm water runoff from hot spots. ~~industrial and commercial properties, including restaurants and auto repair shops, auto supply shops, large commercial parking areas.~~

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4.2.4. Construction Site Storm Water Runoff Control

- 4.2.4.1 *Permit requirement.* You must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to your small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of storm water discharges from construction activity disturbing less than one acre must be included in your program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. Your program must include the development and implementation of, at a minimum:
  - 4.2.4.1.1 An ordinance or other regulatory mechanism to require erosion prevention and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under State or local law; this regulatory mechanism must be in place within 18 months of coverage under this permit;

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- 4.2.4.1.2 Requirements for construction site operators to implement appropriate erosion prevention and sediment control best management practices;
- 4.2.4.1.3 Requirements corresponding to the [Tennessee Construction General Permit](#), effective July 1, 2000:
- (a) Necessity of an erosion prevention and sediment control/pollution prevention plan
  - ~~(b) Pre-construction vegetative ground cover shall not be disturbed more than 20 calendar days prior to grading or earth moving unless the area is seeded and/or mulched or other temporary cover is installed~~
  - ~~(c) Construction must be sequenced and phased to minimize exposure of bare soil, with no disturbance more than 20 days prior to grading or earth moving;~~
  - ~~(d) Temporary or permanent soil stabilization shall be accomplished within 15 days after final grading or other earth work.~~
  - ~~(e)(b)~~ Erosion and sediment control measures shall be designed to control the rainfall and runoff from a 2 year, 24 hour storm, as a minimum.
  - ~~(f)(c)~~ For common drainage locations that serve an area with 10 or more acres disturbed at one time, a temporary (or permanent) sediment basin that provides storage for a calculated volume of runoff from a 2 year, 24 hour storm and runoff coefficient from each disturbed acre drained, or equivalent control measures, shall be provided until final stabilization of the site. Where no such calculation has been performed, a temporary (or permanent) sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent control measures, shall be provided until final stabilization of the site.
- 4.2.4.1.4 Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;
- 4.2.4.1.5 Procedures for site plan review which incorporate consideration of potential water quality impacts;
- 4.2.4.1.6 Procedures for receipt and consideration of information submitted by the public; and
- 4.2.4.1.7 Procedures for site inspection and enforcement of control measures.
- 4.2.4.1.8 Your staff must be trained in the fundamentals of erosion prevention and sediment control and in how to review erosion and sediment control plans. At a minimum, this training must include the Tennessee Fundamentals of Erosion Prevention and Sediment Control; and the Erosion Prevention and Sediment Control Design Courses.
- 4.2.4.1.9 Your program must provide for the following:
- (a) Recognition of priority construction activity, including at a minimum those construction activities discharging directly into, or immediately upstream of, waters the state recognizes as impaired (for siltation) or high quality;
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- (b) Pre-construction meetings with construction-site operators, for priority construction activities; and
- (c) Inspections by the MS4, of priority construction sites at least once per month.

4.2.4.2 You must establish the ordinance or other regulatory mechanism of this minimum measure (4.2.4.1.1) within 18 months of the effective date of your notice of coverage and all components within 24 months effective date of your notice of coverage.

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4.2.5. Post-Construction Storm Water Management in New Development and Redevelopment

4.2.5.1 Permit requirement. You must:

4.2.5.1.1 Develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into your small MS4. Your program must ensure that controls are in place that would prevent or minimize water quality impacts;

4.2.5.1.2 Develop and implement strategies which include a combination of structural and/or non-structural best management practices (BMPs) appropriate for your community; and

4.2.5.1.3 You must develop and implement a set of requirements to establish, protect and maintain water quality buffers in areas of new development and redevelopment.

4.2.5.1.4 Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State or local law; and

4.2.5.1.5 Ensure adequate long-term operation and maintenance of BMPs.

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4.2.6. Pollution Prevention/Good Housekeeping for Municipal Operations

4.2.6.1 Permit requirement. You must:

4.2.6.1.1 Develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations; and

4.2.6.1.2 Using training materials that are available from EPA, the division, or other organizations, your program must include employee training to prevent and reduce storm water pollution from activities such as park and open space

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maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance.

- 4.2.6.1.3 You must consider the following in developing your program: maintenance activities, maintenance schedules, and long-term inspection procedures for structural and non-structural storm water controls to reduce floatables and other pollutants discharged from your separate storm sewers; controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, fleet or maintenance shops with outdoor storage areas, salt/sand storage locations and snow disposal areas operated by you, and waste transfer stations; procedures for properly disposing of waste removed from the separate storm sewers and areas listed above (such as dredge spoil, accumulated sediments, floatables, and other debris); and ways to ensure that new flood management projects assess the impacts on water quality and examine existing projects for incorporating additional water quality protection devices or practices. Operation and maintenance must be an integral component of all storm water management programs. This measure is intended to improve the efficiency of these programs and require new programs where necessary. Properly developed and implemented operation and maintenance programs reduce the risk of water quality problems.

#### **4.3. Qualifying State or Local Program**

If there is a qualifying state or local program that implements one or more elements of the six minimum measures outlined above in your area of jurisdiction, then you are not required to develop and implement those program elements.

#### **4.4. Sharing Responsibility**

Implementation of one or more of the minimum measures may be shared with another entity, or the entity may fully take over the measure. You may rely on another entity only if:

- 4.4.1. The other entity, in fact, implements the control measure;
- 4.4.2. The particular control measure, or component of that measure, is at least as stringent as the corresponding permit requirement.
- 4.4.3. The other entity agrees to implement the control measure on your behalf. Written acceptance of this obligation is expected. This obligation must be maintained as part of the description of your storm water management program. If the other entity agrees to report on the minimum measure, you must supply the other entity with the reporting requirements contained in Section ~~5.45-3~~ of this permit. If the other entity fails to implement the control measure on your behalf, then you remain liable for any discharges due to that failure to implement.

#### **4.5. Reviewing and Updating Storm Water Management Programs**

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- 4.5.1. *Storm Water Management Program Review:* You must do an annual review of your Storm Water Management Program in conjunction with preparation of the annual report required under Part ~~5.45.3~~.
- 4.5.2. *Storm Water Management Program Update:* You may change your Storm Water Management Program during the life of the permit in accordance with the following procedures:
- 4.5.2.1 Changes adding (but not subtracting or replacing) components, controls, or requirements to the Storm Water Management Program may be made at any time upon written notification to the division.
- 4.5.2.2 Changes replacing an ineffective or unfeasible BMP specifically identified in the Storm Water Management Program with an alternate BMP may be ~~requested~~adopted at any time, provided you clearly report the analysis outlined below in the subsequent annual report. You may present this analysis as a request for BMP change prior to making the change. Unless denied by the division within 60 days, changes reported in the annual report or proposed~~requested~~ in writing prior to making the change. in accordance with the criteria below, shall be deemed approved. ~~and may be implemented 60 days from submittal of the request.~~ If a change is rejected or a request is denied, the division will send you a written response giving a reason for the our decision. Unless other provisions are arranged, the division will indicate that the previous BMP shall be put back into effect. Your modification requests must include the following:
- 4.5.2.2.1 An analysis of why the BMP is ineffective or infeasible (including cost prohibitive),
- 4.5.2.2.2 Expectations or report on the effectiveness of the replacement BMP, and
- 4.5.2.2.3 An analysis of why the replacement BMP is expected to achieve the goals of the BMP to be replaced, or has achieved those goals.
- 4.5.2.3 Change requests or notifications must be made in writing and signed in accordance with Part 6.7.
- 4.5.3. *Storm Water Management Program Updates Required by the division:* The division may require changes to the Storm Water Management Program as needed to:
- 4.5.3.1 Address impacts on receiving water quality caused, or contributed to, by discharges from the Municipal Separate Storm Sewer System;
- 4.5.3.2 Include more stringent requirements necessary to comply with new Federal statutory or regulatory requirements; or
- 4.5.3.3 Include such other conditions deemed necessary by the division to comply with the goals and requirements of the Clean Water Act.
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- 4.5.3.4 Changes requested by the division must be made in writing to you, set forth the time schedule for you to develop the changes, and offer you the opportunity to propose alternative program changes to meet the objective of the requested modification. All changes required by the division will be made in accordance with [40 CFR §124.5](#), [40 CFR §122.62](#), or as appropriate [40 CFR §122.63](#).
- 4.5.4. Transfer of Ownership, Operational Authority, or Responsibility of portions of an MS4 to you
- You must implement the Storm Water Management Program on all new areas added to your portion of the municipal separate storm sewer system (or for which you become responsible for implementation of storm water quality controls) as expeditiously as practicable, but not later than one year from addition of the new areas. Implementation may be accomplished in a phased manner to allow additional time for controls that cannot be implemented immediately.
- 4.5.4.1 Within 90 days of a transfer of ownership, operational authority, or responsibility for storm water management program implementation, you must have a plan for implementing your Storm Water Management Program on all affected areas. The plan may include schedules for implementation. Information on all new annexed areas and any resulting updates required to the Storm Water Management Program must be included in the annual report.
- 4.5.4.2 Only those portions of the Storm Water Management Program specifically required as permit conditions shall be subject to the modification requirements of [40 CFR §124.5](#). Addition of components, controls, or requirements by the permittee(s) and replacement of an ineffective or infeasible BMP implementing a required component of the Storm Water Management Program with an alternate BMP expected to achieve the goals of the original BMP shall be considered minor changes to the Storm Water Management Program and not modifications to the permit.

## 5. MONITORING, RECORDKEEPING, AND REPORTING

### 5.1. Analytical Monitoring

- 5.1.1. Items 5.1 is included in case the MS4 elects to perform analytical monitoring as a part of its storm water management program. You must evaluate program compliance, the appropriateness of identified best management practices, and progress toward achieving identified measurable goals. "Monitoring" refers to analytical monitoring in section 5.1.1 to 5.1.3.
- 5.1.2. When you conduct monitoring of storm water discharges from your MS4, or of waterbodies into which storm water discharges enter, at your permitted small MS4, you are required to comply with the following:
- 5.1.2.1 *Representative monitoring.* Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- 5.1.2.2 *Test Procedures.* Monitoring results must be conducted according to test procedures approved under [40 CFR §136](#).

- 5.1.3. Records of monitoring information shall include:
  - 5.1.3.1 The date, exact place, and time of sampling or measurements;
  - 5.1.3.2 The names(s) of the individual(s) who performed the sampling or measurements;
  - 5.1.3.3 The date(s) analyses were performed;
  - 5.1.3.4 The names of the individuals who performed the analyses;
  - 5.1.3.5 The analytical techniques or methods used; and
  - 5.1.3.6 The results of such analyses.

~~5.1.4. Discharge Monitoring Report. Monitoring results must be reported on a Discharge Monitoring Report (DMR).~~

## **5.2. Non-analytical monitoring**

- 5.2.1. When you conduct non-analytical monitoring of storm water discharges, of waterbodies into which storm water discharges enter, or of indicators of water quality, you are required to comply with the following:
  - 5.2.1.1 Representative monitoring. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- 5.2.2. Records of monitoring information shall include:
  - 5.2.2.1 The date, exact place, and time of sampling or measurements;
  - 5.2.2.2 The names(s) of the individual(s) who performed the sampling or measurements;
  - 5.2.2.3 The date(s) analyses were performed;
  - 5.2.2.4 The names of the individuals who performed the analyses;
  - 5.2.2.5 A description of the monitoring technique or method; and
  - 5.2.2.6 The results of the monitoring.



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### **5.2.5.3. Record keeping**

~~5.2.4.5.3.1.~~ You must retain records of all monitoring information, including, all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, ~~copies of Discharge Monitoring Reports (DMRs),~~ a copy of the NPDES permit, and records of all data used to complete the application ([NOI](#)) for this permit, for a period of at least three years from the date of the sample, measurement, report or application, or for the term of this permit, whichever is longer. ~~The division may extend this period with good cause. is period may be extended by request of the division at any time.~~

~~5.2.2.5.3.2.~~ You must submit your records to the division only when specifically asked to do so. You must retain a description of the Storm Water Management Program required by this permit (including a copy of the permit language) at a location accessible to the division. You must make your records, including the [Notice of Intent \(NOI\)](#) and the description of the storm water management program, available to the public if requested to do so in writing.

### **5.3.5.4. Reporting**

You must submit annual reports to the director by ~~June 30~~ September 30 ~~following~~ of each year of the permit term. ~~You may fulfill this requirement by submitting the report via e-mail, in a form readily accessible by staff of the Department of Environment and Conservation.~~ The report must include:

~~5.3.1.5.4.1.~~ The status of your compliance with permit conditions, an assessment of the appropriateness of the identified best management practices, progress towards achieving the statutory goal of reducing the discharge of pollutants to the MEP, and the measurable goals for each of the minimum control measures;

~~5.3.2.5.4.2.~~ Results of information collected and analyzed, if any, during the reporting period, including monitoring data used to assess the success of the program at reducing the discharge of pollutants to the MEP;

~~5.3.3.5.4.3.~~ A summary of the storm water activities you plan to undertake during the next reporting cycle (including an implementation schedule);

~~5.3.4.5.4.4.~~ Proposed changes to your storm water management program, including changes to any BMPs or any identified measurable goals that apply to the program elements; and

~~5.3.5.5.4.5.~~ Notice that you are relying on another government entity to satisfy some of your permit obligations (if applicable).

**6. STANDARD PERMIT CONDITIONS**

**6.1. Duty to Comply**

6.1.1. You must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the [Clean Water Act](#) (CWA) and/or the [Tennessee Water Quality Control Act](#) (TWQCA) **and** is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

6.1.2. Penalties for Violations of Permit Conditions

Pursuant to [T.C.A. § 69-3-115](#) of The Tennessee Water Quality Control Act of 1977, as amended:

- 6.1.2.1 any person who violates an effluent standard or limitation or a water quality standard established under this part ([T.C.A. § 69-3-101](#), et. seq.); violates the terms or conditions of this permit; fails to complete a filing requirement; fails to allow or perform an entry, inspection, monitoring or reporting requirement; violates a final determination or order of the board, panel or commissioner; or violates any other provision of this part or any rule or regulation promulgated by the board, is subject to a civil penalty of up to ten thousand dollars (\$10,000) per day for each day during which the act or omission continues or occurs;
- 6.1.2.2 any person unlawfully polluting the waters of the state or violating or failing, neglecting, or refusing to comply with any of the provisions of this part ([T.C.A. § 69-3-101](#), et. seq.) commits a Class C misdemeanor. Each day upon which such violation occurs constitutes a separate offense;
- 6.1.2.3 any person who willfully and knowingly falsifies any records, information, plans, specifications, or other data required by the board or the commissioner, or who willfully and knowingly pollutes the waters of the state, or willfully fails, neglects or refuses to comply with any of the provisions of this part ([T.C.A. § 69-3-101](#), et. seq.) commits a Class E felony and shall be punished by a fine of not more than twenty-five thousand dollars (\$25,000) or incarceration, or both.
- 6.1.2.4 Nothing in this permit shall be construed to relieve the discharger from civil or criminal penalties for noncompliance. Notwithstanding this permit, the discharger shall remain liable for any damages sustained by the State of Tennessee, including but not limited to fish kills and losses of aquatic life and/or wildlife, as a result of the discharge of treated wastewater to any surface or subsurface waters. Additionally, notwithstanding this permit, it shall be the responsibility of the discharger to conduct its wastewater treatment and/or discharge activities in a manner such that public or private nuisances or health hazards will not be created. Furthermore, nothing in this permit shall be construed to preclude the State of Tennessee from any legal action or relieve the discharger from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or the Federal Water Pollution Control Act.

**6.2. Continuation of the Expired General Permit**

This permit expires on ~~February 26, 2008~~~~December 31, 2007~~. You may maintain coverage under the ~~expired-administratively continued~~ general permit (until a new general permit is issued) by re-submitting the completed [NOI](#) prior to the expiration date of this general permit. You can choose, or may be required, to obtain an individual permit; in that case, you must submit an application (Forms [1](#) and any other [applicable forms](#)) at least 180 days prior to expiration of this general permit. Permittees who are eligible and choose to be covered by a new general permit must submit an NOI by the date specified in that permit.

**6.3. Need to Halt or Reduce Activity Not a Defense**

It shall not be a defense for you in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

**6.4. Duty to Mitigate**

You must take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

**6.5. Duty to Provide Information**

You must furnish to the division, within a time specified by the division, any information that the division may request to determine compliance with this permit. You must also furnish to the division upon request, copies of records required to be kept by this permit.

**6.6. Other Information**

If you become aware that you have failed to submit any relevant facts in your Notice of Intent or submitted incorrect information in the Notice of Intent or in any other report to the division, you must promptly submit such facts or information.

**6.7. Signatory Requirements**

All Notices of Intent, reports, certifications, or information submitted to the division, or that this permit requires be maintained by you shall be signed, dated and certified as follows:

- 6.7.1. *Notices of Intent.* All Notices of Intent shall be signed by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (1) the chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

- 6.7.2. *Reports and other information.* All reports required by the permit and other information requested by the division or authorized representative of the division shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- 6.7.2.1 *Signed authorization.* The authorization is made in writing by a person described in Part 6.7.1 above and submitted to the division.
- 6.7.2.2 *Authorization with specified responsibility.* The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility for environmental matter for the regulated entity.
- 6.7.3. *Changes to authorization.* If an authorization is no longer accurate because a different operator has the responsibility for the overall operation of the MS4, a new authorization satisfying the requirement of 6.7.2.2 must be submitted to the division prior to or together with any reports, information, or notices of intent to be signed by an authorized representative.
- 6.7.4. *Certification.* Any person (as defined above in 6.7.2.1 and 6.7.2.2) signing documents under Section 6.7 shall make the following certification:

*"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*

## **6.8. Property Rights**

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

## **6.9. Proper Operation and Maintenance**

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related equipment) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of the permit.

**6.10. Inspection and Entry**

You must allow the division or an authorized representative (including an authorized contractor acting as a representative of the division) upon the presentation of credentials and other documents as may be required by law, to do any of the following:

- 6.10.1. Enter your premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
- 6.10.2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;
- 6.10.3. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment) practices, or operations regulated or required under this permit; and
- 6.10.4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.

**6.11. Permit Actions**

This permit may be modified, revoked and reissued, or terminated for cause. Your filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**6.12. Permit Transfers**

This permit is not transferable to any person except after notice to the division. The division may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

**6.13. Anticipated Noncompliance**

You must give advance notice to the division of any planned changes in the permitted small MS4 or activity which may result in noncompliance with this permit.

**6.14. State Environmental Laws**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable Tennessee law or regulation under authority preserved by the [Section 510 of the Clean Water Act](#). No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

**6.15. Severability**

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

**6.16. Procedures for Modification or Revocation**

Permit modification or revocation will be conducted according to [40 CFR §122.62](#), [§122.63](#), [§122.64](#) and [§124.5](#).

**6.17. Requiring an Individual Permit or an Alternative General Permit**

6.17.1. *Request by the Division.* The division may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the division to take action under this paragraph. Where the division requires you to apply for an individual NPDES permit, the division will notify you in writing that a permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for you to file the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications must be submitted to the appropriate Environmental Assistance Center (see 1.2 above). The division may grant additional time to submit the application upon request of the applicant. If you fail to submit in a timely manner an individual NPDES permit application as required by the division under this paragraph, then the applicability of this permit to you is automatically terminated at the end of the day specified by the division for application submittal.

6.17.2. *Request by permittee.* Any discharger authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, you must submit an individual application in accordance with the requirements of [40 CFR §122.33\(b\)\(2\)](#), with reasons supporting the request, to the division at the address for the appropriate Environmental Assistance Center (see 1.2 above). The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by you are adequate to support the request.

6.17.3. *General permit termination.* When an individual NPDES permit is issued to a discharger otherwise subject to this permit, or you are authorized to discharge under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an operator otherwise subject to this permit, or the operator is denied for coverage under an alternative NPDES general permit, the

applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the division.

## 7. DEFINITIONS

All definition contained in Section 502 of the Act and [40 CFR §122](#) shall apply to this permit and are incorporated herein by reference. For convenience, simplified explanations of some regulatory/statutory definitions have been provided, but in the even of a conflict, the definition found in the Statute or Regulation takes precedence.

~~Analytical monitoring refers to monitoring of waterbodies (streams, ponds, lakes, etc.) or of storm water, according to 40 CFR 136 “Guidelines Establishing Test Procedures for the Analysis of Pollutants,” or to state- or federally established protocols for biomonitoring or stream bioassessments.~~

*Best Management Practices (BMPs)* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

*Buffer* ~~[See below under “water quality buffer.”] means a vegetated area, including trees, shrubs and herbaceous vegetation, which exists or is established to protect a stream system, lake, or reservoir area.~~

*Co-permittee* means a permittee to an NPDES permit that is only responsible for permit conditions relating to the discharge for which it is operator.

*Control Measure* as used in this permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the state.

*CWA or The Act* means [Clean Water Act](#) (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub.L.92-500, as amended Pub.L.95-217, Pub.L.95-576, Pub.L.96-483 and Pub.L.97-117, 33 U.S.C.1251 et.seq.

*Director* means the director of the Tennessee Division of Water Pollution Control, or an authorized representative.

*Discharge*, when used without a qualifier, refers to “discharge of a pollutant” as defined at [40 CFR §122.2](#).

*Division* means [the Tennessee Division of Water Pollution Control](#).

*High Quality Waters* are surface waters of the State of Tennessee that satisfy characteristics of high quality waters as listed in [Rule 1200-4-3-.06](#) of the official compilation - rules and regulations of the State of Tennessee. Characteristics include waters designated by the Water Quality Control Board as Outstanding National Resource Waters (ONRW); waters that provide habitat for ecologically significant populations of certain aquatic or semi-aquatic plants or animals;

waters that provide specialized recreational opportunities; waters that possess outstanding scenic or geologic values; or waters where existing conditions are better than water quality standards. High quality waters are sometimes referred to as Tier II or Tier III (ONRW) waters.

Hot spot means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Examples might include operations producing concrete or asphalt, auto repair shops, auto supply shops, large commercial parking areas, restaurants.

*Illicit Connection* means any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

*Illicit Discharge* is defined at [40 CFR §122.26\(b\)\(2\)](#) and refers to any discharge to a municipal separate storm sewer that is not entirely composed of storm water, except discharges authorized under an NPDES permit (other than the NPDES permit for discharges from the MS4) and discharges resulting from fire fighting activities.

*Impaired Waters* means any segment of surface waters that has been identified by the division as failing to support classified uses. The Division periodically compiles a list of such waters known as the 303(d) List. The Division will notify applicants and permittees if there discharge is into, or is affecting, impaired waters.

*Load Allocation (LA)*: The portion of a receiving water's loading capacity that is attributed either to one of its existing or future nonpoint sources of pollution or to natural background ([40 CFR §130.2\(g\)](#)).

*Margin of Safety (MOS)*: The "MOS" accounts for uncertainty in the loading calculation. The MOS may not be the same for different waterbodies due to differences in the availability and strength of data used in the calculations.

*MEP* is an acronym for "Maximum Extent Practicable," the technology-based discharge standard for Municipal Separate Storm Sewer Systems to reduce pollutants in storm water discharges that was established by CWA §402(p). A discussion of MEP as it applies to small MS4s is found at [40 CFR §122.34](#).

Monitoring refers to tracking or measuring activities, progress, results, etc.; and can refer to non-analytical monitoring for pollutants by means other than 40 CFR 136 (and other than state- or federally established protocols in the case of biological monitoring and assessments), such as visually or by qualitative tools that provide comparative values or rough estimates.

*MS4* is an acronym for "Municipal Separate Storm Sewer System" and is used to refer to either a Large, Medium, or Small Municipal Separate Storm Sewer System (e.g. "the Dallas MS4"). The term is used to refer to either the system operated by a single entity or a group of systems within an area that are operated by multiple entities (e.g., the Cookeville MS4 includes MS4s operated by the city of Cookeville, the Tennessee Department of Transportation, the Maury County Flood Control District, Shelby County, and others).



*Municipal Separate Storm Sewer (MS4)* is defined at [40 CFR §122.26\(b\)\(8\)](#) and means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- (i.) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the state;
- (ii.) Designed or used for collecting or conveying storm water;
- (iii.) Which is not a combined sewer; and
- (iv.) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at [40 CFR §122.2](#).

*NOI* is an acronym for “[Notice of Intent](#)” to be covered by this permit and is the mechanism used to “register” for coverage under a general permit.

*Nonpoint Source* is essentially any source of pollutant(s) that is not a point source. Examples are sheet flow from pastures and runoff from paved areas.

*Point Source* means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

*Priority construction activity shall be defined by the MS4, but shall include, at a minimum, those construction activities discharging directly into, or immediately upstream of, waters the state recognizes as impaired (for siltation) or high quality waters.*

*Water quality buffer means undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of vegetation bordering streams, ponds, wetlands, reservoirs or lakes, which exists or is established to protect those waterbodies.*

*Small Municipal Separate Storm Sewer System* is defined at [40 CFR §122.26\(b\)\(16\)](#) and refers to all separate storm sewers that are owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the state, but is not defined as “large” or “medium” municipal separate storm sewer system. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or

prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

*Storm Water* is defined at [40 CFR §122.26\(b\)\(13\)](#) and means storm water runoff, snow melt runoff, and surface runoff and drainage.

*Storm Water Management Program (SWMP)* refers to a comprehensive program to manage the quality of storm water discharged from the municipal separate storm sewer system.

SWMP is an acronym for “Storm Water Management Program.”

*TMDL (Total Maximum Daily Load)* in this permit generally refers to a study that: 1. quantifies the amount of a pollutant in a stream; 2. identifies the sources of the pollutant; and 3., recommends regulatory or other actions that may need to be taken in order for the stream to no longer be polluted. Quantitatively, it is the sum of the individual wasteload allocations for point sources and load allocations for nonpoint sources and natural background ([40 CFR §130.2\(I\)](#)). ~~TMDL is a study that: 1. quantifies the amount of a pollutant in a stream, 2. identifies the sources of the pollutant, 3. and recommends regulatory or other actions that may need to be taken in order for the stream to no longer be polluted.~~ Following are actions that might be recommended: Re-allocate limits on the sources of pollutants documented as impacting streams. It might be necessary to lower the amount of pollutants being discharged under NPDES permits or to require the installation of other control measures, if necessary, to insure that standards will be met. For sources the division does not have regulatory authority over, such as ordinary non-point source agricultural and forestry activities, provide information and technical assistance to other state and federal agencies that work directly with these groups to install appropriate Best Management Practices. Even for the impacted streams found on the 303(d) List, TMDL development is not considered appropriate for all bodies of water: if enforcement has already been taken and a compliance schedule has been developed; or if best management practices have already been installed for non-regulated activities, the TMDL is considered not applicable. In causes involving pollution sources in other states, the recommendation may be that another state or EPA perform the TMDL analysis. TMDLs can be described by the following equation:

$$\text{TMDL} = \text{sum of non-point sources (LA)} + \text{sum of point sources (WLA)} + \text{margin of safety}$$

*Wasteload Allocation (WLA)*: The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. WLAs constitute the type of water quality-based effluent limitation. ([40 CFR §130.2\(h\)](#)).

*Water Quality-Limited Segments*: Those water segments that do not or are not expected to meet applicable water quality standards even after the application of technology-based effluent limitations required by sections 301(b) and 306 of the Act. ([40 CFR §130.2\(j\)](#)) Technology-based controls include, but are not limited to, best practicable control technology currently available (BPT) and secondary treatment.

*Waters of the State* or simply *Waters* is defined in the [Tennessee Water Quality Control Act](#) and means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine to effect a junction with natural surface or underground waters.

*Wet weather conveyances* are man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and which do not support fish and aquatic life and are not suitable for drinking water supplies. 1200-4-3-.04(4)

“*You*” and “*Your*” as used in this permit is intended to refer to the permittee, the operator, or the discharger as the context indicates and that party’s responsibilities (e.g., the city, the county, the flood control district, the U.S. Air Force, etc.).

**APPENDIX A – Notice of Intent (NOI)**

**You may access a copy of the NOI at the division's Web page:**

**<http://www.state.tn.us/environment/wpc/stormh2o/outlinea.doc>** (MS Word document)

**or**

**<http://www.state.tn.us/environment/wpc/stormh2o/outlinea.pdf>** (PDF format)

If you do not have access to the Internet,  
please contact the division at 1-888-891-8332 (TDEC)

or

E-mail a request for the NOI at [Phase.Two@state.tn.us](mailto:Phase.Two@state.tn.us)